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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

M-10-794

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UNITED STATES OF AMERICA

   - against -

MICHAEL WASHINGTON,
  also known as "BOYM13,"

            Defendant.

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AFFIDAVIT AND COMPLAINT
IN SUPPORT OF AN ARREST
WARRANT

M. No. _____
(18 U.S.C. § 2252(a)(1))

EASTERN DISTRICT OF NEW YORK, SS.:

       THOMAS THOMPSON, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation (hereinafter referred to as the "FBI"), duly appointed according to law and acting as such.

       On or about January 15, 2010, within the Eastern District of New York and elsewhere, the defendant MICHAEL WASHINGTON, also known as "BOYM13," did knowingly and intentionally transport and ship in interstate and foreign commerce, by any means including by computer, a visual depiction, the production of such visual depiction having involved the use of one or more minors engaging in sexually explicit conduct and such visual depiction was of such conduct.

       (Title 18, United States Code, Section 2252(a)(1)).

       The source of my information and the grounds for my belief are as follows:[1]

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    [1] Because the purpose of this complaint is merely to establish probable cause to arrest, I have not set forth all of the

1.   I have been a Special Agent of the FBI since December 2004, and am currently assigned to the New York Office. Since September 2007, I have been assigned to the Internet Crimes Against Children squad.   I have been assigned to investigate violations of criminal law relating to the sexual exploitation of children.   I have gained expertise in this area through training in classes and daily work related to conducting these types of investigations.   As part of my responsibilities, I have been involved in the investigation of numerous child pornography cases and have reviewed thousands of photographs depicting children (less than eighteen years of age) being sexually exploited by adults. Through my experience in these investigations, I have become familiar with methods of determining whether a child is a minor. I am also a member of the Eastern District of New York Project Safe Childhood Task Force.

2.   I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents, my training and experience, and discussions I have had with other law enforcement personnel concerning the creation, distribution, and proliferation of child pornography. Additionally, statements attributable to individuals herein are set forth in sum and substance and in part.

THE FBI INVESTIGATION

3.   On or about January 15, 2010, an FBI Special Agent

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facts and circumstances concerning this investigation of which I am aware.

working in an undercover capacity ("Undercover Agent") signed into a peer-to-peer (P2P) program, which is publicly-available, via an internet-connected computer located within the FBI Chicago Division.   The Undercover Agent memorialized the session by intermittent video capture using a computer program called Camtasia. Any download activity from the session was monitored via a Network Monitoring Program.

4.   Upon signing in to the publicly available P2P file sharing program, the Undercover Agent observed that the user "BOYM13" was online.   The Undercover Agent proceeded to browse "BOYM13"'s shared directories and observed files depicting images and titles indicative of child pornography.

5.   The Undercover Agent downloaded seventeen (17) files from "BOYM13," and a later review of these files revealed that sixteen (16) of them appeared to be child pornography.[2] Several of these images, which are available for the Court's review, are

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[2] Although still images of apparent child pornography can be created using "morphing" technology and the identity of these minors are not known to law enforcement (i.e., the identity and age of the children have not been discovered by law enforcement), it appears that these images involve the use of actual (i.e. non-virtual) minors engaging in sexually explicit conduct. This conclusion is also based upon my consultation with other agents experienced in determining whether child pornography images depict real children. In addition, based upon my experience in child pornography investigations, I have found that collectors of child pornography generally have in their collections both images which depict children known to law enforcement and images in which the identities of the children depicted are not yet known to law enforcement. Moreover, where, as here, an individual is a member of a hardcore pedophile/child pornography network which is not accessible by casual web-browsing, the likelihood that such an individual is in possession of child pornography depicting real children is extremely high.

described as follows:

a.   **055.jpg** is a photo depicting photo depicting two, partially clothed prepubescent boys, approximately nine years old, who appear to have each others' penises in their mouths.

b.   **3-07-2.jpg** is a photo depicting three nude prepubescent boys, approximately twelve years old, lying nude on a bed. One boy's hands are on the other boys' penises.

c.   **7272427ktz.jpg** is a photo of two prepubescent boys, one approximately six years old (partially clothed), and one approximately nine years old (nude). Both boys are standing and appear to be holding each others' penises.

d.   **10005455MfA[1].jpg** is a photo of a partially clothed prepubescent boy, approximately eight years old, lying on a bed exposing his genitals.

6.   The Undercover Agent used the Network Monitoring Program to identify the IP address utilized by "BOYM13" as 68.247.56.78.

7.   Records obtained for the subscriber and account information for the IP address 68.247.56.78 revealed that this IP address was registered to Sprint/Nextel, an internet service provider ("ISP"). Records obtained from Sprint/Nextel by administrative subpoena showed that this IP address was associated with a mobile device, telephone number 347-724-4789, and subscribed to "Gerald Washington." The address associated with that account was 65-16 Parsons Boulevard, Apartment 2A, Flushing, New York 11365 ("65-16 PARSONS BOULEVARD").

8.   On March 9, 2010, the affiant called the wireless telephone number 347-724-4789. The call went into voicemail, and

the name on the outgoing message sounded like "Marshawn." Publicly available database searches returned that a "DeShawn Washington" and a "DeVaughn Washington" have been associated with the residence at 65-16 PARSONS BOULEVARD.

THE SEARCH OF DEFENDANT'S RESIDENCE

9. On April 29, 2010, I and other law enforcement personnel executed a search warrant issued by the Honorable Cheryl L. Pollak, United States Magistrate Judge for the Eastern District of New York, on the premises at 65-16 PARSONS BOULEVARD. Pursuant to that search, agents recovered an Acer laptop computer, serial number LXAZL0Y0437140300652500 ("ACER LAPTOP"). A Sprint/Nextel mobile air card, serial number "09610493677", was attached to the ACER LAPTOP, and, Sprint/Nextel records show, was the same mobile device that "BOYM13" used on January 15, 2010 to access the Internet while distributing child pornography through GigaTribe.

10. The defendant MICHAEL WASHINGTON was present at the residence at the time the search warrant was executed. WASHINGTON was advised that he was not under arrest and that he could discontinue the interview at anytime. WASHINGTON then made statements, including, in sum and substance, that he had two computers in his bedroom at 65-16 PARSONS BOULEVARD. WASHINGTON indicated that one of the computers was working, and that the other computer was not working. WASHINGTON stated that he used his father's Wi-Fi to access the Internet; he could not recall if the Wi-Fi used either Sprint or Roadrunner. Initially, WASHINGTON stated that he had not heard of GigaTribe. Later, however,

WASHINGTON stated that he knew of GigaTribe and that it had been installed on his computer for approximately one year. WASHINGTON did not respond when asked if he was the user of GigaTribe account "BOYM13" or if he has traded child pornography. After making additional statements, WASHINGTON indicated that he wanted a lawyer, at which point the interview was discontinued.

11. While agents were continuing to execute the search warrant, WASHINGTON indicated to other law enforcement agents present that he would like to speak with them without a lawyer present. WASHINGTON was provided with provided with an FD-395 "Advice of Rights" form, which he read, stated he understood, and signed. WASHINGTON then made statements, including, in sum and substance, that he understood that there are approximately 200 image files containing child pornography and several video files containing child pornography that can be found on the ACER LAPTOP. WASHINGTON defined child pornography as anyone under the age of 18 having sex.
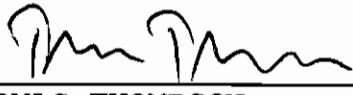
12. When agents entered WASHINGTON's bedroom at 65-16 PARSONS BOULEVARD, the ACER LAPTOP was powered on but in "sleep mode." I pressed the power button to take the ACER LAPTOP out of "sleep mode," and, upon doing so, observed that one of the open windows was the GigaTribe login screen. The "username" field of the GigaTribe login screen was populated with the name "BOYM13."

13. A preliminary forensic examination of the ACER LAPTOP revealed approximately 104 image files and 20 video files containing child pornography. Approximately 36 image files and 8 video files containing child pornography were found in the folder

"\Owner\Documents\GigaTribe Downloads\boym13". In particular, the specific images referenced in paragraph 5(a)-(d), above, were found on the ACER LAPTOP.

14. GigaTribe was installed on the ACER LAPTOP and was upgraded to version 3.1.1 on April 23, 2010. "BOYM13" was the only GigaTribe account found on ACER LAPTOP.

WHEREFORE, Your affiant respectfully requests that the Court issue an arrest warrant for the defendant MICHAEL WASHINGTON so that he may be dealt with according to law.

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THOMAS THOMPSON
Special Agent - FBI

Sworn to before me this
__13__ day of July, 2010

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UDGE
NEW YORK

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